(Spl.-H.C.A.S.,C.D.,78-e)

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE

APPEAL FROM ORDER NO. 41 OF 2003

| Office Note, Office Memoranda of Quorum, appearances, Court's orders or directions and Registrar's orders. | Court's or Judge's Orders |
|---|---|

Shri S. D. Lotlikar, Senior Advocate with Shri A. D. Bhobe, advocate for the appellants.

Shri M. S. Sonak, advocate for the respondent.

CORAM : SMT. NISHITA MHATRE, J.

DATE : 8th January, 2004

P.C.:

The Order challenged by the appellants grants the plaintiff/respondent a temporary injunction as prayed for, in respect of the suit house and suit shed. Learned counsel appearing for the appellants takes exception to this approach of the trial Court of granting a temporary injunction without considering the preliminary objection of the appellants that the Civil Court's jurisdiction is barred in view of the provisions of the Goa Mundkars (Protection From Eviction) Act, 1975. The submission is that

the plaintiff has approached the Court averring that she is a mundkar and, therefore, the Civil Court's jurisdiction is barred. It appears that although an objection has been taken in the written statement, to the jurisdiction of the Civil Court, no specific application as been made to the Civil Court to determine the issue of jurisdiction as a preliminary objection.

2. The appellants may file such an application to decide the question of jurisdiction as a preliminary issue, if so advised. In the event such an application is filed by the appellants within a week from today, the trial Court may dispose it of after taking into account objections, if any, raised by respondent as available in law, within a period of three months in accordance with law. Till such time as the trial Court decides the issue, the appellants will not evict the respondent from the suit house

and the suit shed.

In view of this, the Appeal From Order is disposed of.

SMT. NISHITA MHATRE, J.

MC.